

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

**DORIS BEVELL,
Complainant,**

and

**CAREMARK, INC.,
Respondent.**

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) Charge No: 2006CA1124
) EEOC No: N/A
) ALS Nos: 07-741
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RECOMMENDED ORDER AND DECISION

This matter is before me on my own motion, *sua sponte*, to issue a Recommended Order and Decision dismissing this matter.

The Illinois Department of Human Rights is an additional statutory agency that has issued state actions in this matter. It is, therefore, named herein as an additional party of record.

Based upon the record, I make the following findings of fact:

FINDINGS OF FACT

1. Complainant filed a Charge of Discrimination with the Illinois Department of Human Rights (Department) on November 10, 2005. On September 26, 2007, Complainant filed a Complaint, on her own behalf, with the Illinois Human Rights Commission (Commission) alleging that Respondent discriminated against her in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 *et seq.* On November 20, 2007, Respondent filed a verified answer to the Complaint.
2. Subsequently, the parties appeared before this tribunal on several status hearings. Complainant appeared *pro se* throughout these proceedings. Respondent appeared through counsel.
3. On October 14, 2008, both parties appeared. An order was entered setting a briefing schedule for Respondent to file a motion for summary decision. Respondent was ordered to

file its motion for summary decision by January 16, 2009, and Complainant was ordered to file a response by February 20, 2009. A status was set for March 10, 2009. The record showed that neither party filed any summary decision pleadings.

4. On January 14, 2009, a Motion for Voluntary Dismissal was filed purporting to have been signed by Complainant; however, the document was not an original. Commission staff telephoned Respondent's counsel and Complainant and spoke with each personally and advised that an original motion for voluntary dismissal must be filed immediately with the Commission, in accordance with Section 5300.40(d) of the Act.
5. Although a status was scheduled for March 10, 2009, neither party appeared for the status and the record showed that no original motion for voluntary dismissal had been filed.

CONCLUSION OF LAW

Complainant's failure to appear for the March 10, 2009, scheduled hearing or to properly serve a motion for voluntary dismissal has resulted in unreasonable delay of this matter, justifying dismissal of this Complaint.

DISCUSSION

Section 5300.750(e) of the Procedural Rules of the Illinois Human Rights Commission authorizes a recommendation for dismissal with prejudice where a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays or protracts the proceedings. Similarly, 775 ILCS 5/8A-102(l)(6) authorizes a recommended order of dismissal, with prejudice, as a sanction for a party's failure to prosecute her case, appear at a hearing, or otherwise comply with this Act, the rules of the Commission, or a previous Order of the Administrative Law Judge.

Complainant failed to appear for the March 10, 2009, scheduled hearing and the record shows that a motion for voluntary dismissal has not been properly filed.

RECOMMENDATION

Accordingly, I recommend that this Complaint and the underlying Charge be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

By: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section

ENTERED: March 11, 2009